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# [***County of San Mateo v. Chevron Corp.***](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5RYJ-G8D1-F8D9-M3HF-00000-00&context=)

United States District Court for the Northern District of California

March 16, 2018, Decided; March 16, 2018, Filed

Case No. 17-cv-04929-VC; Case No. 17-cv-04934-VC; Case No. 17-cv-04935-VC

**Reporter**

294 F. Supp. 3d 934 \*; 2018 U.S. Dist. LEXIS 49197 \*\*; 48 ELR 20051; 86 ERC (BNA) 1119; 2018 WL 1414774

COUNTY OF SAN MATEO, Plaintiff, v. CHEVRON CORP., et al., Defendants.CITY OF IMPERIAL BEACH, Plaintiff, v. CHEVRON CORP., et al., Defendants.COUNTY OF MARIN, Plaintiff, v. CHEVRON CORP., et al., Defendants.

**Subsequent History:** Request granted, Petition denied by [*Cty. of San Mateo v. Chevron Corp., 2018 U.S. App. LEXIS 13451 (9th Cir. Cal., May 22, 2018)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5SCX-VFD1-JJK6-S1TD-00000-00&context=)

**Core Terms**

federal common law, removal, state law claim, cases, state court, preemption, defendants', displaced, federal court, plaintiffs', emissions, preempted, lawsuits

**Counsel:** **[\*\*1]**For County of San Mateo, individually and on behalf of the People of the State of California, Plaintiff (3:17cv4929): David Abraham Silberman, John C. Beiers, Margaret Victoria Tides, LEAD ATTORNEYS, San Mateo County Counsel's Office, Redwood City, CA USA; Martin Daniel Quinones, LEAD ATTORNEY, Tycko & Zavareei, LLP, Oakland, CA USA; Matthew Kendall Edling, Timothy Robin Sloane, Victor Marc Sher, LEAD ATTORNEYS, Sher Edling LLP, San Francisco, CA USA; Paul Akira Okada, LEAD ATTORNEY, Redwood City, CA USA.

For Chevron Corp., Chevron USA, Defendants (3:17cv4929): Theodore J. Boutrous, Jr., LEAD ATTORNEY, Gibson, Dunn & Crutcher Llp, Los Angeles, CA USA. Andrea Ellen Neuman, Gibson Dunn & Crutcher LLP, Irvine, CA USA; Anne Marie Champion, Gibson Dunn & Crutcher LLP, New York, NY USA; Avi Garbow, Gibson Dunn Crutcher LLP, Washington, DC USA; Ethan D. Dettmer, Gibson, Dunn & Crutcher LLP, San Francisco, CA USA; Herbert J Stern, Stern Kilcullen LLC, Florham Park, NJ USA; Joel M. Silverstein, PRO HAC VICE, Stern & Kilcullen, LLC, Florham Park, NJ USA; Johnny William Carter, Neal Stuart Manne, Susman Godfrey LLP, Houston, TX USA; Kalpana Srinivasan, Michael Brent Adamson, Susman Godfrey L.L.P.,**[\*\*2]** Los Angeles, CA USA; Kemper Diehl, Susman Godfrey L.L.P., Seattle, WA USA; Steven M. Shepard, Susman Godfrey LLP, New York, NY USA; William Edward Thomson, Gibson Dunn & Cruthcher LLP, Los Angeles, CA USA.

For Exxonmobil Corp, Defendant (3:17cv4929): Daniel John Toal, LEAD ATTORNEY, Paul, Weiss, Rifkind, Wharton & Garrison, New York, NY USA; Dawn Sestito, LEAD ATTORNEY, OMelveny and Myers LLP, Los Angeles, CA USA; Jaren Janghorbani, LEAD ATTORNEY, Paul, Weiss, Rifkind, Wharton and Garrison LLP, New York, NY USA; Mark Randall Oppenheimer, LEAD ATTORNEY, OMelveny Myers, Los Angeles, CA USA; Theodore V. Wells, Jr., LEAD ATTORNEY, Paul Weiss Rifkind Wharton & Garrison LLP, New York, NY USA.

For Bp America Inc., Defendant (3:17cv4929): John David Lombardo, Arnold & Porter LLP, Los Angeles, CA USA; Jonathan W. Hughes, Arnold & Porter LLP, San Francisco, CA USA; Matthew T. Heartney, Arnold & Porter, Los Angeles, CA USA; Nancy G. Milburn, Philip H. Curtis, Arnold Porter Kaye Scholer LLP, New York, NY USA; Rachael S Shen, Arnold Porter Kaye Scholer LLP, San Francisco, CA USA.

For Royal Dutch Shell Plc, Defendant (3:17cv4929): Daniel Paul Collins, LEAD ATTORNEY, Munger Tolles & Olson LLP, Los Angeles,**[\*\*3]** CA USA; Jerome Cary Roth, Munger Tolles & Olson LLP, San Francisco, CA USA.

For Shell Oil Products Company Llc, Defendant (3:17cv4929): Daniel Paul Collins, LEAD ATTORNEY, Munger Tolles & Olson LLP, Los Angeles, CA USA; Jerome Cary Roth, LEAD ATTORNEY, Elizabeth Ann Kim, Munger Tolles & Olson LLP, San Francisco, CA USA; Brendan J. Crimmins, David C. Frederick, Kellogg, Hansen, Todd, Figel and Frederick, PLLC, Washington, DC USA.

For Citgo Petroleum Corporation, Defendant (3:17cv4929): Craig Alan Moyer, LEAD ATTORNEY, Manatt, Phelps and Phillips, LLP, Los Angeles, CA USA; Peter Raymond Duchesneau, LEAD ATTORNEY, Manatt Phelps et al LLP, Los Angeles, CA USA; Stephanie Anne Roeser, Manatt, Phelps and Phillips LLP, San Francisco, CA USA.

For Conocophillips, Conocophillips Company, Defendants (3:17cv4929): Megan R Nishikawa, LEAD ATTORNEY, King & Spalding LLP, San Francisco, CA USA; Carol Margaret Wood, King and Spalding, Houston, TX USA; Justin Torres, King and Spalding LLP, Washington, DC USA; Tracie Jo Renfroe, King & Spalding LLP, Houston, TX USA.

For Phillips 66, Defendant (3:17cv4929): Margaret Tough, Steven Mark Bauer, LEAD ATTORNEYS, Latham & Watkins LLP, San Francisco, CA USA; Megan**[\*\*4]** R Nishikawa, LEAD ATTORNEY, King & Spalding LLP, San Francisco, CA USA; Carol Margaret Wood, King and Spalding, Houston, TX USA; Justin Torres, King and Spalding LLP, Washington, DC USA; Tracie Jo Renfroe, King & Spalding LLP, Houston, TX USA.

For Peabody Energy Corporation, Defendant (3:17cv4929): William M. Sloan, Esq., LEAD ATTORNEY, Venable LLP, San Francisco, CA USA.

For Total E&P USA Inc., Total Specialties USA Inc., Defendants (3:17cv4929): Christopher William Keegan, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA USA; Andrew R McGaan, Kirkland and Ellis LLP, Chicago, IL USA; Anna Grace Rotman, Kirkland and Ellis LLP, Houston, TX USA; Bryan David Rohm, TOTAL EP USA INC, Houston, TX USA.

For Arch Coal, Inc., Defendant (3:17cv4929): Kathleen Taylor Sooy, LEAD ATTORNEY, Crowell & Moring LLP, Washington, DC USA; Thomas Francis Koegel, Crowell & Moring LLP, San Francisco, CA USA; Tracy A. Roman, Crowell & Moring, Washington, DC USA.

For Eni Oil & Gas Inc., Defendant (3:17cv4929): David Edward Cranston, LEAD ATTORNEY, Greenberg Glusker Fields Claman & Machtinger, LLP, Los Angeles, CA USA.

For Rio Tinto Energy America Inc., Rio Tinto Minerals, Inc., Rio Tinto Services Inc., Defendants**[\*\*5]** (3:17cv4929): Andrew A Kassof, Kirkland Ellis LLP, Chicago, IL USA; Brenton Adam Rogers, Kirkland and Ellis LLP, Chicago, IL USA; Mark Edward McKane, Kirkland & Ellis LLP, San Francisco, CA USA.

For Anadarko Petroleum Corp., Defendant (3:17cv4929): James Joseph Dragna, Yardena Rachel Zwang-Weissman, LEAD ATTORNEYS, Morgan Lewis & Bockius, Los Angeles, CA USA; Bryan Michael Killian, Morgan Lewis Bockius LLP, Washington, DC USA.

For Occidental Petroleum Corporation, Defendant (3:17cv4929): R. Morgan Gilhuly, Stephen Crawford Lewis, LEAD ATTORNEYS, Barg Coffin Lewis & Trapp, LLP, San Francisco, CA USA; Marc A. Fuller, Vinson & Elkins L.L.P., Dallas, TX USA; Matthew R Stammel, Vinson Elkins, LLC, Dallas, TX USA.

For Occidental Chemical Corporation, Defendant (3:17cv4929): R. Morgan Gilhuly, Stephen Crawford Lewis, LEAD ATTORNEYS, Barg Coffin Lewis & Trapp, LLP, San Francisco, CA USA; Marc A. Fuller, Vinson & Elkins L.L.P., Dallas, TX USA.

For Repsol Energy North America Corp., Repsol Trading USA Corp., Marathon Oil Company, Marathon Oil Corporation, Hess Corp., Defendants (3:17cv4929): Christopher J. Carr, LEAD ATTORNEY, Jonathan Acker Shapiro, Baker Botts LLP, San Francisco, CA USA; Evan**[\*\*6]** Andrew Young, Baker Botts LLP, Austin, TX USA; Jacob Scott Janoe, Baker Botts LLP, Houston, TX USA; Megan H. Berge, Baker Botts L.L.P., Washington, DC USA.

For Marathon Petroleum Corp., Defendant (3:17cv4929): Ann Marie Mortimer, LEAD ATTORNEY, Hunton & Williams, Los Angeles, CA USA; Shannon Suzanne Broome, LEAD ATTORNEY, Hunton and Williams, LLP, San Francisco, CA USA; Shawn P. Regan, LEAD ATTORNEY, Hunton & Williams LLP, New York, NY USA; Evan Andrew Young, Baker Botts LLP, Austin, TX USA; Jacob Scott Janoe, Baker Botts LLP, Houston, TX USA; Megan H. Berge, Baker Botts L.L.P., Washington, DC USA.

For Devon Energy Corp., Devon Energy Production Company, LP, Defendants (3:17cv4929): Gregory Evans, LEAD ATTORNEY, McGuireWoods LLP, Los Angeles, CA USA; Brian David Schmalzbach, Joy Cummings Fuhr, Steven Robert Williams, McGuireWoods LLP, Richmond, VA USA.

For Encana Corp., Defendant (3:17cv4929): Michael Louis Fox, LEAD ATTORNEY, Duane Morris LLP, San Francisco, CA USA; Michael F. Healy, Esq., LEAD ATTORNEY, Shook, Hardy & Bacon L.L.P., San Francisco, CA USA.

For Apache Corp., Defendant (3:17cv4929): Mortimer H. Hartwell, LEAD ATTORNEY, VINSON & ELKINS LLP, San Francisco, CA USA; Patrick**[\*\*7]** W. Mizell, LEAD ATTORNEY, Deborah Carleton Milner, Vinson Elkins LLP, Houston, TX USA.

For City And County of San Francisco, City of Oakland, Interested Parties (3:17cv4929): Steve W. Berman, PRO HAC VICE, Hagens Berman Sobol Shapiro LLP, Seattle, WA USA.

For Chevron Corp., Chevron USA, 3rd Party Plaintiffs (3:17cv4929): Herbert J Stern, Joel M. Silverstein, Stern Kilcullen LLC, Florham Park, NJ USA; Johnny William Carter, Neal Stuart Manne, Susman Godfrey LLP, Houston, TX USA; Kemper Diehl, Susman Godfrey L.L.P., Seattle, WA USA.

For City of Imperial Beach, individually and on behalf of the People of the State of California, Plaintiff (3:17cv4934): Jennifer Marguerite Lyon, LEAD ATTORNEY, McDougal Love et al, La Mesa, CA USA; Martin Daniel Quinones, LEAD ATTORNEY, Tycko & Zavareei, LLP, Oakland, CA USA; Matthew Kendall Edling, Victor Marc Sher, LEAD ATTORNEYS, Timothy Robin Sloane, Sher Edling LLP, San Francisco, CA USA; Steven Eugene Boehmer, LEAD ATTORNEY, McDougal Love Boehmer Foley Lyon Canlas, La Mesa, CA USA.

For Chevron Corp., Chevron USA, Inc., Defendants (3:17cv4934): Theodore J. Boutrous, Jr., LEAD ATTORNEY, Attorney at Law, Gibson, Dunn & Crutcher Llp, Los Angeles, CA USA;**[\*\*8]** Andrea Ellen Neuman, Gibson Dunn & Crutcher LLP, Irvine, CA USA; Anne Marie Champion, Gibson Dunn & Crutcher LLP, New York, NY USA; Avi Garbow, Gibson Dunn Crutcher LLP, Washington, DC USA; Ethan D. Dettmer, Gibson, Dunn & Crutcher LLP, San Francisco, CA USA; Herbert J Stern, Stern Kilcullen LLC, Florham Park, NJ USA; Joel M. Silverstein, Stern & Kilcullen, LLC, Florham Park, NJ USA; Johnny William Carter, Neal Stuart Manne, Susman Godfrey LLP, Houston, TX USA; Kalpana Srinivasan, Michael Brent Adamson, Susman Godfrey L.L.P., Los Angeles, CA USA; Kemper Diehl, Susman Godfrey L.L.P., Seattle, WA USA; Steven M. Shepard, Susman Godfrey LLP, New York, NY USA; William Edward Thomson, Gibson Dunn & Cruthcher LLP, Los Angeles, CA USA.

For Exxonmobil Corp, Defendant (3:17cv4934): Daniel John Toal, LEAD ATTORNEY, Paul, Weiss, Rifkind, Wharton & Garrison, New York, NY USA; Dawn Sestito, LEAD ATTORNEY, OMelveny and Myers LLP, Los Angeles, CA USA; Jaren Janghorbani, LEAD ATTORNEY, Paul, Weiss, Rifkind, Wharton and Garrison LLP, New York, NY USA; Mark Randall Oppenheimer, LEAD ATTORNEY, OMelveny Myers, Los Angeles, CA USA; Theodore V. Wells, Jr., LEAD ATTORNEY, Paul Weiss Rifkind Wharton & Garrison**[\*\*9]** LLP, New York, NY USA.

For Bp Plc, Defendant: Bp America, Inc., Defendant (3:17cv4934): John David Lombardo, Arnold & Porter LLP, Los Angeles, CA USA; Jonathan W. Hughes, Arnold & Porter LLP, San Francisco, CA USA; Matthew T. Heartney, Arnold & Porter, Los Angeles, CA USA; Nancy G. Milburn, Philip H. Curtis, Arnold Porter Kaye Scholer LLP, New York, NY USA; Rachael S Shen, Arnold Porter Kaye Scholer LLP, San Francisco, CA USA.

For Royal Dutch Shell Plc., Defendant (3:17cv4934): Daniel Paul Collins, LEAD ATTORNEY, Munger Tolles & Olson LLP, Los Angeles, CA USA; Jerome Cary Roth, LEAD ATTORNEY, Munger Tolles & Olson LLP, San Francisco, CA USA.

For Shell Oil Products Company Llc, Defendant (3:17cv4934): Daniel Paul Collins, LEAD ATTORNEY, Munger Tolles & Olson LLP, Los Angeles, CA USA; Jerome Cary Roth, LEAD ATTORNEY, Munger Tolles & Olson LLP, San Francisco, CA USA; Brendan J. Crimmins, Kellogg, Hansen, Todd, Figel and Frederick, PLLC, Washington, DC USA; David C. Frederick, Kellogg, Hansen, Todd, Figel & Frederick, PLLC, Washington, DC USA; Elizabeth Ann Kim, Munger Tolles and Olson LLP, San Francisco, CA USA.

For Citgo Petroleum Corporation, Defendant (3:17cv4934): Craig Alan Moyer, LEAD**[\*\*10]** ATTORNEY, Manatt, Phelps and Phillips, LLP, Los Angeles, CA USA; Peter Raymond Duchesneau, LEAD ATTORNEY, Manatt Phelps et al LLP, Los Angeles, CA USA; Stephanie Anne Roeser, Manatt, Phelps and Phillips LLP, San Francisco, CA USA.

For Conocophillips, Conocophillips Company, Defendants (3:17cv4934): Megan R Nishikawa, LEAD ATTORNEY, King & Spalding LLP, San Francisco, CA USA; Carol Margaret Wood, King and Spalding, Houston, TX USA; Justin Torres, King and Spalding LLP, Washington, DC USA; Tracie Jo Renfroe, King & Spalding LLP, Houston, TX USA.

For Phillips 66, Defendant (3:17cv4934): Margaret Tough, Steven Mark Bauer, LEAD ATTORNEYS, Latham & Watkins LLP, San Francisco, CA USA; Megan R Nishikawa, LEAD ATTORNEY, King & Spalding LLP, San Francisco, CA USA; Carol Margaret Wood, King and Spalding, Houston, TX USA; Justin Torres, King and Spalding LLP, Washington, DC USA; Tracie Jo Renfroe, King & Spalding LLP, Houston, TX USA.

For Peabody Energy Corporation, Defendant (3:17cv4934): William M. Sloan, Esq., LEAD ATTORNEY, Venable LLP, San Francisco, CA USA.

For Total E&P USA Inc., Defendant (3:17cv4934): Christopher William Keegan, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA USA;**[\*\*11]** Andrew R McGaan, Kirkland and Ellis LLP, Chicago, IL USA; Anna Grace Rotman, Kirkland and Ellis LLP, Houston, TX USA; Bryan David Rohm, TOTAL EP USA INC, Houston, TX USA.

For Total Specialties USA Inc., Defendant (3:17cv4934): Christopher William Keegan, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA USA; Andrew R McGaan, Kirkland and Ellis LLP, Chicago, IL USA; Anna Grace Rotman, Kirkland and Ellis LLP, Houston, TX USA.

For Arch Coal, Inc., Defendant (3:17cv4934): Kathleen Taylor Sooy, LEAD ATTORNEY, PRO HAC VICE, Crowell & Moring LLP, Washington, DC USA; Tracy A. Roman, LEAD ATTORNEY, Crowell & Moring, Washington, DC USA; Thomas Francis Koegel, Crowell & Moring LLP, San Francisco, CA USA.

For Eni Oil & Gas Inc., Defendant (3:17cv4934): David Edward Cranston, LEAD ATTORNEY, Greenberg Glusker Fields Claman & Machtinger, LLP, Los Angeles, CA USA.

For Rio Tinto Energy America Inc., Defendant (3:17cv4934): Mark Edward McKane, Kirkland & Ellis LLP, San Francisco, CA USA.

For Rio Tinto Minerals, Inc., Rio Tinto Services Inc., Defendants (3:17cv4934): Andrew A Kassof, Kirkland Ellis LLP, Chicago, IL USA; Brenton Adam Rogers, Kirkland and Ellis LLP, Chicago, IL USA; Mark Edward McKane,**[\*\*12]** Kirkland & Ellis LLP, San Francisco, CA USA.

For Anadarko Petroleum Corp., Defendant (3:17cv4934): James Joseph Dragna, LEAD ATTORNEY, Morgan Lewis & Bockius, Los Angeles, CA USA; Bryan Michael Killian, Morgan Lewis Bockius LLP, Washington, DC USA.

For Occidental Petroleum Corporation, Defendant (3:17cv4934): R. Morgan Gilhuly, Stephen Crawford Lewis, LEAD ATTORNEYS, Barg Coffin Lewis & Trapp LLP, San Francisco, CA USA; Marc A. Fuller, Vinson & Elkins L.L.P., Dallas, TX USA; Matthew R Stammel, Vinson Elkins, LLC, Dallas, TX USA.

For Occidental Chemical Corporation, Defendant (3:17cv4934): R. Morgan Gilhuly, Stephen Crawford Lewis, LEAD ATTORNEYS, Barg Coffin Lewis & Trapp LLP, San Francisco, CA USA; Marc A. Fuller, Vinson & Elkins L.L.P., Dallas, TX USA.

For Repsol Energy North America Corp., Repsol Trading USA Corp., Marathon Oil Company, Marathon Oil Corporation, Hess Corp., Defendants (3:17cv4934): Christopher J. Carr, LEAD ATTORNEY, Baker Botts LLP, San Francisco, CA USA; Jonathan Acker Shapiro, Baker Botts L.L.P., San Francisco, CA USA.

For Marathon Petroleum Corp., Defendant (3:17cv4934): Ann Marie Mortimer, LEAD ATTORNEY, Hunton & Williams, Los Angeles, CA USA; Shannon Suzanne Broome,**[\*\*13]** LEAD ATTORNEY, Hunton and Williams, LLP, San Francisco, CA USA; Shawn P. Regan, LEAD ATTORNEY, PRO HAC VICE, Hunton & Williams LLP, New York, NY USA.

For Devon Energy Corp., Devon Energy Production Company, LP, Defendants (3:17cv4934): Brian David Schmalzbach, Joy Cummings Fuhr, Steven Robert Williams, McGuireWoods LLP, Richmond, VA USA; Gregory Evans, McGuireWoods LLP, Los Angeles, CA USA.

For Encana Corp., Defendant (3:17cv4934): Michael Louis Fox, LEAD ATTORNEY, Duane Morris LLP, San Francisco, CA USA; Michael F. Healy, Esq., LEAD ATTORNEY, Shook, Hardy & Bacon L.L.P., San Francisco, CA USA.

For Apache Corp., Defendant (3:17cv4934): Mortimer H. Hartwell, LEAD ATTORNEY, VINSON & ELKINS LLP, San Francisco, CA USA; Patrick W. Mizell, LEAD ATTORNEY, Vinson Elkins LLP, Houston, TX USA; Deborah Carleton Milner, Vinson Elkins L.L.P., Houston, TX USA.

For Chevron Corp., Chevron USA, Inc., 3rd Party Plaintiffs (3:17cv4934): Herbert J Stern, Stern Kilcullen LLC, Florham Park, NJ USA; Joel M. Silverstein, Stern & Kilcullen, LLC, Florham Park, NJ USA; Johnny William Carter, Neal Stuart Manne, Susman Godfrey LLP, Houston, TX USA; Kemper Diehl, Susman Godfrey L.L.P., Seattle, WA USA.

For County of**[\*\*14]** Marin, individually and on behalf of the People of the State of California, Plaintiff (3:17cv4935): Brian Charles Case, LEAD ATTORNEY, Marin County Counsel, San Rafael, CA USA; Brian E. Washington, LEAD ATTORNEY, Office of the County Counsel, County of Marin, San Rafael, CA USA; Martin Daniel Quinones, LEAD ATTORNEY, Tycko & Zavareei, LLP, Oakland, CA USA; Matthew Kendall Edling, Timothy Robin Sloane, Victor Marc Sher, LEAD ATTORNEYS, Sher Edling LLP, San Francisco, CA USA.

For Chevron Corp., Chevron USA; Inc., Defendants (3:17cv4935): Theodore J. Boutrous, Jr., LEAD ATTORNEY, Attorney at Law, Gibson, Dunn & Crutcher Llp, Los Angeles, CA USA; Andrea Ellen Neuman, Gibson Dunn & Crutcher LLP, Irvine, CA USA; Anne Marie Champion, Gibson Dunn & Crutcher LLP, New York, NY USA; Avi Garbow, Gibson Dunn Crutcher LLP, Washington, DC USA; Erica Worth Harris, Susan Godfrey LLP, Houston, TX USA; Ethan D. Dettmer, Gibson, Dunn & Crutcher LLP, San Francisco, CA USA; Herbert J Stern, Stern Kilcullen LLC, Florham Park, NJ USA; Joel M. Silverstein, PRO HAC VICE, Stern & Kilcullen, LLC, Florham Park, NJ USA; Johnny William Carter, Neal Stuart Manne, Susman Godfrey LLP, Houston, TX USA; Kalpana Srinivasan,**[\*\*15]** Michael Brent Adamson, Susman Godfrey L.L.P., Los Angeles, CA USA; Kemper Diehl, Susman Godfrey L.L.P., Seattle, WA USA; Steven M. Shepard, Susman Godfrey LLP, New York, NY USA; William Edward Thomson, Gibson Dunn & Cruthcher LLP, Los Angeles, CA USA; Thomas Stedman Brown, Foley Lardner, San Francisco, CA USA.

For Exxonmobil Corp, Defendant (3:17cv4935): Daniel John Toal, LEAD ATTORNEY, Paul, Weiss, Rifkind, Wharton & Garrison, New York, NY USA; Dawn Sestito, LEAD ATTORNEY, OMelveny and Myers LLP, Los Angeles, CA USA; Jaren Janghorbani, LEAD ATTORNEY, Paul, Weiss, Rifkind, Wharton and Garrison LLP, New York, NY USA; Mark Randall Oppenheimer, LEAD ATTORNEY, OMelveny Myers, Los Angeles, CA USA; Theodore V. Wells, Jr., LEAD ATTORNEY, Paul Weiss Rifkind Wharton & Garrison LLP, New York, NY USA.

For Bp America, Inc., Defendant (3:17cv4935): Jonathan W. Hughes, LEAD ATTORNEY, Arnold & Porter LLP, San Francisco, CA USA; John David Lombardo, Arnold & Porter LLP, Los Angeles, CA USA; Matthew T. Heartney, Arnold & Porter, Los Angeles, CA USA; Nancy G. Milburn, Philip H. Curtis, Arnold Porter Kaye Scholer LLP, New York, NY USA; Rachael S Shen, Arnold Porter Kaye Scholer LLP, San Francisco, CA USA.**[\*\*16]**

For Royal Dutch Shell Plc, Defendant (3:17cv4935): Daniel Paul Collins, LEAD ATTORNEY, Munger Tolles & Olson LLP, Los Angeles, CA USA; Jerome Cary Roth, LEAD ATTORNEY, Munger Tolles & Olson LLP, San Francisco, CA USA.

For Shell Oil Products Company Llc, Defendant (3:17cv4935): Daniel Paul Collins, LEAD ATTORNEY, Munger Tolles & Olson LLP, Los Angeles, CA USA; Jerome Cary Roth, LEAD ATTORNEY, Munger Tolles & Olson LLP, San Francisco, CA USA; Brendan J. Crimmins, Kellogg, Hansen, Todd, Figel and Frederick, PLLC, Washington, DC USA; David C. Frederick, Kellogg, Hansen, Todd, Figel & Frederick, PLLC, Washington, DC USA; Elizabeth Ann Kim, Munger Tolles and Olson LLP, San Francisco, CA USA.

For Citgo Petroleum Corporation, Defendant (3:17cv4935): Craig Alan Moyer, LEAD ATTORNEY, Manatt, Phelps and Phillips, LLP, Los Angeles, CA USA; Peter Raymond Duchesneau, LEAD ATTORNEY, Manatt Phelps et al LLP, Los Angeles, CA USA; Stephanie Anne Roeser, Manatt, Phelps and Phillips LLP, San Francisco, CA USA.

For Conocophillips, Defendant (3:17cv4935): Megan R Nishikawa, LEAD ATTORNEY, King & Spalding LLP, San Francisco, CA USA; Carol Margaret Wood, King and Spalding, Houston, TX USA; Justin Torres, King**[\*\*17]** and Spalding LLP, Washington, DC USA; Tracie Jo Renfroe, King & Spalding LLP, Houston, TX USA.

For Conocophillips Company, Defendant (3:17cv4935): Megan R Nishikawa, LEAD ATTORNEY, King & Spalding LLP, San Francisco, CA USA; Carol Margaret Wood, King and Spalding, Houston, TX USA; Justin Torres, King and Spalding LLP, Washington, DC USA; Tracie Jo Renfroe, King & Spalding LLP, Houston, TX USA.

For Phillips 66, Defendant (3:17cv4935): Margaret Tough, LEAD ATTORNEY, Latham & Watkins LLP, San Francisco, CA USA; Megan R Nishikawa, LEAD ATTORNEY, King & Spalding LLP, San Francisco, CA USA; Steven Mark Bauer, LEAD ATTORNEY, Latham & Watkins LLP, San Francisco, CA USA; Carol Margaret Wood, King and Spalding, Houston, TX USA; Justin Torres, King and Spalding LLP, Washington, DC USA; Tracie Jo Renfroe, King & Spalding LLP, Houston, TX USA.

For Peabody Energy Corporation, Defendant (3:17cv4935): William M. Sloan, Esq., LEAD ATTORNEY, Venable LLP, San Francisco, CA USA.

For Total E&P USA Inc., Defendant (3:17cv4935): Christopher William Keegan, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA USA; Andrew R McGaan, Kirkland and Ellis LLP, Chicago, IL USA; Anna Grace Rotman, Kirkland and Ellis**[\*\*18]** LLP, Houston, TX USA; Bryan David Rohm, TOTAL EP USA INC, Houston, TX USA.

For Total Specialties USA Inc., Defendant (3:17cv4935): Christopher William Keegan, LEAD ATTORNEY, Kirkland & Ellis LLP, San Francisco, CA USA; Andrew R McGaan, Kirkland and Ellis LLP, Chicago, IL USA; Anna Grace Rotman, Kirkland and Ellis LLP, Houston, TX USA.

For Arch Coal, Inc., Defendant (3:17cv4935): Kathleen Taylor Sooy, LEAD ATTORNEY, PRO HAC VICE, Crowell & Moring LLP, Washington, DC USA; Thomas Francis Koegel, Crowell & Moring LLP, San Francisco, CA USA; Tracy A. Roman, Crowell & Moring, Washington, DC USA.

For Eni Oil & Gas Inc., Defendant (3:17cv4935): David Edward Cranston, LEAD ATTORNEY, Greenberg Glusker Fields Claman & Machtinger, LLP, Los Angeles, CA USA.

For Rio Tinto Energy America Inc., Rio Tinto Minerals, Inc., Rio Tinto Services Inc., Defendants (3:17cv4935): Andrew A Kassof, Kirkland Ellis LLP, Chicago, IL USA; Brenton Adam Rogers, Kirkland and Ellis LLP, Chicago, IL USA; Mark Edward McKane, Kirkland & Ellis LLP, San Francisco, CA USA.

For Anadarko Petroleum Corp., Defendant (3:17cv4935): James Joseph Dragna, LEAD ATTORNEY, Morgan Lewis & Bockius, Los Angeles, CA USA; Yardena Rachel Zwang-Weissman,**[\*\*19]** LEAD ATTORNEY, Morgan Lewis Bockius, Los Angeles, CA USA; Bryan Michael Killian, Morgan Lewis Bockius LLP, Washington, DC USA.

For Occidental Petroleum Corporation, Occidental Chemical Corporation, Defendants (3:17cv4935): R. Morgan Gilhuly, LEAD ATTORNEY, Barg Coffin Lewis & Trapp, LLP, San Francisco, CA USA; Stephen Crawford Lewis, LEAD ATTORNEY, Barg Coffin Lewis & Trapp LLP, San Francisco, CA USA; Marc A. Fuller, Vinson & Elkins L.L.P., Dallas, TX USA; Matthew R Stammel, Vinson Elkins, LLC, Dallas, TX USA.

For Repsol Energy North America Corp., Repsol Trading USA Corp., Marathon Oil Company, Marathon Oil Corporation, Hess Corp., Defendants (3:17cv4935): Christopher J. Carr, LEAD ATTORNEY, Baker Botts LLP, San Francisco, CA USA; Jonathan Acker Shapiro, Baker Botts L.L.P., San Francisco, CA USA.

For Marathon Petroleum Corp., Defendant (3:17cv4935): Ann Marie Mortimer, LEAD ATTORNEY, Hunton & Williams, Los Angeles, CA USA; Shannon Suzanne Broome, LEAD ATTORNEY, Hunton and Williams, LLP, San Francisco, CA USA; Shawn P. Regan, LEAD ATTORNEY, PRO HAC VICE, Hunton & Williams LLP, New York, NY USA.

For Devon Energy Corp., Devon Energy Production Company, LP, Defendants (3:17cv4935): Gregory**[\*\*20]** Evans, LEAD ATTORNEY, McGuireWoods LLP, Los Angeles, CA USA; Brian David Schmalzbach, Joy Cummings Fuhr, Steven Robert Williams, McGuireWoods LLP, Richmond, VA USA.

For Encana Corp., Defendant (3:17cv4935): Michael Louis Fox, LEAD ATTORNEY, Duane Morris LLP, San Francisco, CA USA; Michael F. Healy, Esq., LEAD ATTORNEY, Shook, Hardy & Bacon L.L.P., San Francisco, CA USA.

For Apache Corp., Defendant (3:17cv4935): Mortimer H. Hartwell, LEAD ATTORNEY, VINSON & ELKINS LLP, San Francisco, CA USA; Patrick W. Mizell, LEAD ATTORNEY, Vinson Elkins LLP, Houston, TX USA; Deborah Carleton Milner, Vinson Elkins L.L.P., Houston, TX USA.

For Chevron Corp., Chevron USA; Inc., 3rd Party Plaintiffs (3:17cv4935): Erica Worth Harris, Susan Godfrey LLP, Houston, TX USA; Herbert J Stern, Stern Kilcullen LLC, Florham Park, NJ USA; Joel M. Silverstein, Stern & Kilcullen, LLC, Florham Park, NJ USA; Johnny William Carter, Neal Stuart Manne, Susman Godfrey LLP, Houston, TX USA; Kalpana Srinivasan, Susman Godfrey L.L.P., Los Angeles, CA USA; Kemper Diehl, Susman Godfrey L.L.P., Seattle, WA USA; Thomas Stedman Brown, Foley Lardner, San Francisco, CA USA.

**Judges:** VINCE CHHABRIA, United States District Judge.

**Opinion by:** VINCE CHHABRIA

**Opinion**

**[\*937]**Re:**[\*\*21]** Dkt. No. 144

Re: Dkt. No. 140

**ORDER GRANTING MOTIONS TO REMAND**

Re: Dkt. No. 140

The plaintiffs' motions to remand are granted.

1. Removal based on federal common law was not warranted. In *American Electric Power Co., Inc. v. Connecticut*, the Supreme Court held that the Clean Air Act displaces federal common law claims that seek the abatement of greenhouse gas emissions. [*564 U.S. 410, 424, 131 S. Ct. 2527, 180 L. Ed. 2d 435 (2011)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:534M-DR21-F04K-F4C2-00000-00&context=). Far from holding (as the defendants bravely assert) that state law claims relating to global warming are superseded by federal common law, the Supreme Court noted that the question of whether such state law claims survived would depend on whether they are preempted by the federal statute that had displaced federal common law (a question the Court did not resolve). [*Id. at 429*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:534M-DR21-F04K-F4C2-00000-00&context=). This seems to reflect the Court's view that once federal common law is displaced by a federal statute, there is no longer a possibility that state law claims could be superseded by the previously-operative federal common law.

Applying *American Electric Power*, the Ninth Circuit concluded in *Native Village of Kivalina v. ExxonMobil Corp*. that federal common law is displaced by the Clean Air Act not only when plaintiffs seek injunctive relief to curb emissions**[\*\*22]** but also when they seek damages for a defendant's contribution to global warming. [*696 F.3d 849, 857-58 (9th Cir. 2012)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:56MH-C6S1-F04K-V4VT-00000-00&context=). The plaintiffs in the current cases are seeking similar relief based on similar conduct, which means that federal common law does not govern their claims. In this respect, the Court disagrees with [*People of the State of California v. BP P.L.C., Nos. C 17-06011 WHA, C 17-06012 WHA, 2018 U.S. Dist. LEXIS 32990 (N.D. Cal. Feb. 27, 2018)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5RS5-5N31-F8KH-X2VV-00000-00&context=), which concluded that San Francisco and Oakland's current lawsuits are materially different from *Kivalina* such that federal common law could play a role in the current lawsuits brought by the localities even while it could not in *Kivalina*. Like the localities in the current cases, the [*Kivalina*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:56MH-C6S1-F04K-V4VT-00000-00&context=) plaintiffs sought damages resulting from rising sea levels and land erosion. Not coincidentally, there is significant overlap between the defendants in *Kivalina* and the defendants in the current cases. [*696 F.3d at 853-54*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:56MH-C6S1-F04K-V4VT-00000-00&context=) & n.1. The description of the claims asserted was also nearly identical in *Kivalina* and the current cases: that the defendants' contributions to greenhouse gas emissions constituted "a substantial and unreasonable interference with public rights." [*Id. at 854*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:56MH-C6S1-F04K-V4VT-00000-00&context=). Given these facts, [*Kivalina*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:56MH-C6S1-F04K-V4VT-00000-00&context=) stands for the proposition that federal**[\*\*23]** common law is not just displaced when it comes to claims against domestic sources of emissions but also when it comes to claims against energy producers' contributions to global warming and rising sea levels. [*Id. at 854-58*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:56MH-C6S1-F04K-V4VT-00000-00&context=). Put another way, [*American Electric Power*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:534M-DR21-F04K-F4C2-00000-00&context=) did not confine its holding about the displacement of federal common law to particular sources of emissions, and *Kivalina* did not apply *American Electric Power* in such a limited way.

Because federal common law does not govern the plaintiffs' claims, it also does not preclude them from asserting the state law claims in these lawsuits. Simply put, these cases should not have been removed to federal court on the basis of federal common law that no longer exists.

2. Nor was removal warranted under the doctrine of complete preemption. State law claims are often preempted by federal law, but preemption alone seldom **[\*938]** justifies removing a case from state court to federal court. Usually, state courts are left to decide whether state law claims are preempted by federal law under principles of "express preemption," "conflict preemption" or "field preemption." And state courts are entirely capable of adjudicating that sort of question. *See, e.g.,* [*Smith v. Wells Fargo Bank, N.A., 135 Cal. App. 4th 1463, 38 Cal. Rptr. 3d 653, 665-73 (Cal. Ct. App. 2005)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4J4H-FR90-0039-42XB-00000-00&context=),**[\*\*24]** *as modified on denial of reh'g* (Jan. 26, 2006); [*Carpenters Health & Welfare Trust Fund for California v. McCracken, 83 Cal. App. 4th 1365, 100 Cal. Rptr. 2d 473, 474-77 (Cal. Ct. App. 2000)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:419S-3CT0-0039-442M-00000-00&context=). A defendant may only remove a case to federal court in the rare circumstance where a state law claim is "completely preempted" by a specific federal statute — for example, *section 301* of the Labor Management Relations Act, *section 502* of the Employment Retirement Income Security Act, or [*sections 85*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GKX1-NRF4-44P0-00000-00&context=) and [*86*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GR41-NRF4-455V-00000-00&context=) of the National Bank Act. *See* [*Sullivan v. American Airlines, Inc., 424 F.3d 267, 271-73 (2d Cir. 2005)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4H3K-7VG0-0038-X45M-00000-00&context=). The defendants do not point to any applicable statutory provision that involves complete preemption. To the contrary, the Clean Air Act and the Clean Water Act both contain savings clauses that preserve state causes of action and suggest that Congress did not intend the federal causes of action under those statutes "to be exclusive." [*42 U.S.C. §§ 7604(e)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GT51-NRF4-44HR-00000-00&context=), [*7416*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GW41-NRF4-432C-00000-00&context=); [*33 U.S.C. §§ 1365(e)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GM31-NRF4-40WK-00000-00&context=), [*1370*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GNF1-NRF4-44BJ-00000-00&context=); [*Beneficial National Bank v. Anderson, 539 U.S. 1, 9 n.5, 123 S. Ct. 2058, 156 L. Ed. 2d 1 (2003)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:48RN-BY10-004C-0017-00000-00&context=); [*Bell v. Cheswick Generating Station, 734 F.3d 188, 194-97 (3d Cir. 2013)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:595H-JCC1-F04K-K06M-00000-00&context=). There may be important questions of ordinary preemption, but those are for the state courts to decide upon remand.

3. Nor was removal warranted on the basis of *Grable* jurisdiction. The defendants have not pointed to a specific issue of federal law that must necessarily be resolved to adjudicate the state law claims. [*Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing, 545 U.S. 308, 314, 125 S. Ct. 2363, 162 L. Ed. 2d 257 (2005)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4GCW-RR20-004C-0015-00000-00&context=); *see also* [*Empire Healthchoice Assurance, Inc. v. McVeigh, 547 U.S. 677, 700, 126 S. Ct. 2121, 165 L. Ed. 2d 131 (2006)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4K65-85P0-004C-1016-00000-00&context=). Instead, the defendants mostly gesture to federal law and federal concerns in a generalized way. The mere potential for foreign policy implications (resulting from the**[\*\*25]** plaintiffs succeeding on their claims at an unknown future date) does not raise the kind of actually disputed, substantial federal issue necessary for *Grable* jurisdiction. Nor does the mere existence of a federal ***regulatory*** regime mean that these cases fall under *Grable. See* [*Empire Healthchoice, 547 U.S. at 701*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4K65-85P0-004C-1016-00000-00&context=) ("[I]t takes more than a federal element 'to open the "arising under" door.'" (quoting [*Grable, 545 U.S. at 313*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4GCW-RR20-004C-0015-00000-00&context=))). Moreover, even if deciding the nuisance claims were to involve a weighing of costs and benefits, and even if the weighing were to implicate the defendants' dual obligations under federal and state law, that would not be enough to invoke *Grable* jurisdiction. On the defendants' theory, many (if not all) state tort claims that involve the balancing of interests and are brought against federally ***regulated*** entities would be removable. *Grable* does not sweep so broadly. *See* [*Empire Healthchoice, 547 U.S. at 701*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4K65-85P0-004C-1016-00000-00&context=) (describing *Grable* as identifying no more than a "slim category" of removable cases); [*Grable, 545 U.S. at 313-14, 319*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4GCW-RR20-004C-0015-00000-00&context=).

4. These cases were not removable under any of the specialized statutory removal provisions cited by the defendants. Removal under the Outer Continental Shelf Lands Act was not warranted because even if some of the activities that caused the alleged injuries stemmed from**[\*\*26]** operations on the Outer Continental Shelf, the defendants have not shown that the **[\*939]** plaintiffs' causes of action would not have accrued *but for* the defendants' activities on the shelf. *See* *In re Deepwater Horizon, 745 F.3d 157, 163 (5th Cir. 2014)*. Nor was federal enclave jurisdiction appropriate, since federal land was not the "locus in which the claim arose." [*In re High-Tech Employee* ***Antitrust*** *Litigation, 856 F. Supp. 2d 1103, 1125 (N.D. Cal. 2012)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:55FK-K2N1-F04C-T392-00000-00&context=) (quoting [*Alvares v. Erickson, 514 F.2d 156, 160 (9th Cir. 1975))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4X-42S0-0039-M2VH-00000-00&context=); *see also* [*Ballard v. Ameron International Corp., No. 16-CV-06074-JSC, 2016 U.S. Dist. LEXIS 147810, 2016 WL 6216194, at \*3 (N.D. Cal. Oct. 25, 2016)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5M1F-DXD1-F04C-T15G-00000-00&context=); [*Klausner v. Lucas Film Entertainment Co, Ltd., No. 09-03502 CW, 2010 U.S. Dist. LEXIS 25944, 2010 WL 1038228, at \*4 (N.D. Cal. Mar. 19, 2010)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:7Y2K-SGR0-YB0M-N185-00000-00&context=); [*Rosseter v. Industrial Light & Magic, No. C 08-04545 WHA, 2009 U.S. Dist. LEXIS 5307, 2009 WL 210452, at \*2 (N.D. Cal. Jan. 27, 2009)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4VGF-DYD0-TXFP-C363-00000-00&context=). Nor was there a reasonable basis for federal officer removal, because the defendants have not shown a "causal nexus" between the work performed under federal direction and the plaintiffs' claims, which are based on a wider range of conduct. *See* [*Cabalce v. Thomas E. Blanchard & Associates, Inc., 797 F.3d 720, 727 (9th Cir. 2015)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5GNP-K5P1-F04K-V1M1-00000-00&context=); *see also* [*Watson v. Philip Morris Companies, Inc., 551 U.S. 142, 157, 127 S. Ct. 2301, 168 L. Ed. 2d 42 (2007)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4NY4-JS00-004B-Y011-00000-00&context=). And bankruptcy removal did not apply because these suits are aimed at protecting the public safety and welfare and brought on behalf of the public. *See* [*City & Cty. of San Francisco v. PG & E Corp., 433 F.3d 1115, 1123-24 (9th Cir. 2006)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4J0Y-MF00-0038-X1MB-00000-00&context=); [*Lockyer v. Mirant Corp., 398 F.3d 1098, 1108-09 (9th Cir. 2005)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4FFR-CC90-0038-X038-00000-00&context=). To the extent two defendants' bankruptcy plans are relevant, there is no sufficiently close nexus between the plaintiffs' lawsuits and these defendants' plans. *See* [*In re Wilshire Courtyard, 729 F.3d 1279, 1287 (9th Cir. 2013)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:59B2-26D1-F04K-V0BD-00000-00&context=).

\* \* \*

As the defendants note, these state law claims raise national and perhaps global questions. It may even be that these local actions**[\*\*27]** are federally preempted. But to justify removal from state court to federal court, a defendant must be able to show that the case being removed fits within one of a small handful of small boxes. Because these lawsuits do not fit within any of those boxes, they were properly filed in state court and improperly removed to federal court. Therefore, the motions to remand are granted. The Court will issue a separate order in each case to remand it to the state court that it came from.

At the hearing, the defendants requested a short stay of the remand orders to sort out whether a longer stay pending appeal is warranted. A short stay is appropriate to consider whether the matter should be certified for interlocutory appeal, whether the defendants have the right to appeal based on their dubious assertion of federal officer removal, or whether the remand orders should be stayed pending the appeal of Judge Alsup's ruling. Therefore, the remand orders are stayed until 42 days of this ruling. Within 7 days of this ruling, the parties must submit a stipulated briefing schedule for addressing the propriety of a stay pending appeal. The parties should assume that any further stay request will be**[\*\*28]** decided on the papers; the Court will schedule a hearing if necessary.

**IT IS SO ORDERED**.

Dated: March 16, 2018

/s/ Vince Chhabria

VINCE CHHABRIA

United States District Judge

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